

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

DEAN LAMAR TOWNSEND, P.A.

Case No. 950-2014-000276

**Physician Assistant
License No. PA 16781**

Respondent

DECISION AND ORDER

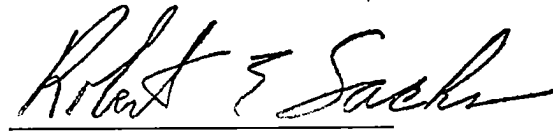
The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 21, 2017.

IT IS SO ORDERED June 22, 2017.

PHYSICIAN ASSISTANT BOARD

By:



Robert E. Sachs, P.A., Chair

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINA L. SEIN
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-9444
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
PHYSICIAN ASSISTANT BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 950-2014-000276

12 **DEAN LAMAR TOWNSEND, P.A.**
13 **23100 Eucalyptus Avenue**
Moreno Valley, CA 92663

OAH No. 2016100110

14 **Physician Assistant License No. PA16781,**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Maureen L. Forsyth (Complainant) is the Executive Officer of the Physician Assistant
21 Board (Board). She brought this action solely in her official capacity and is represented in this
22 matter by Xavier Becerra, Attorney General of the State of California, by Christina L. Sein,
23 Deputy Attorney General.

24 2. Respondent Dean Lamar Townsend, P.A. (Respondent) is represented in this
25 proceeding by attorney Miranda McCroskey, whose address is: Miranda McCroskey, Attorney at
26 Law, 1432 Edinger Ave., Suite 240, Tustin, CA 92780.

27 3. On or about January 30, 2003, the Board issued Physician Assistant License No.
28 PA16781 to Respondent. The Physician Assistant License was in full force and effect at all times

1 relevant to the charges brought in Accusation No. 950-2014-000276, and will expire on June 30,
2 2018, unless renewed.

3 JURISDICTION

4 4. Accusation No. 950-2014-000276 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on August 22, 2016. Respondent timely filed his Notice of
7 Defense contesting the Accusation.

8 5. A copy of Accusation No. 950-2014-000276 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 950-2014-000276. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent does not contest that, at an administrative hearing, Complainant could
25 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
26 No. 950-2014-000276 and that he has thereby subjected his license to disciplinary action.

27 10. Respondent agrees that his Physician Assistant License is subject to discipline and he
28 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 950-2014-000276 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

12. This stipulation shall be subject to approval by the Physician Assistant Board. Respondent understands and agrees that counsel for Complainant and the staff of the Physician Assistant Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician Assistant License No. PA16781 issued to Respondent Dean Lamar Townsend, P.A. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. CONTROLLED DRUGS-MAINTAIN RECORD. Respondent shall maintain a record of all controlled substances administered, transmitted orally or in writing on a patient's

1 record or handed to a patient by the Respondent during probation showing all the following: 1)
2 the name and address of the patient, 2) the date, 3) the character and quantity of controlled
3 substances involved, 4) the indications and diagnosis for which the controlled substance was
4 furnished, and 5) the name of supervising physician prescriber.

5 Respondent shall keep these records at the worksite in a separate file or ledger, in
6 chronological order, and shall make them available for immediate inspection and copying by the
7 Board or its designee, on the premises at all times during business hours, upon request and
8 without charge.

9 2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
10 date of this decision, Respondent shall enroll in a course in medical record keeping approved in
11 advance by the Board or its designee. The course shall be Category I certified, limited to
12 classroom, conference, or seminar settings. Respondent shall successfully complete the course
13 within the first 6 months of probation.

14 Respondent shall pay the cost of the course.

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee within 15 days after completing the course.

17 3. EDUCATION COURSE. Within 60 days of the effective date of the decision,
18 Respondent shall submit to the Board or its designee for its prior approval an educational program
19 or course from an accredited program which shall not be less than 40 hours of Category 1 CME.
20 The education course shall be aimed at correcting any areas of deficient practice or knowledge.
21 The course shall be Category I certified, limited to classroom, conference, or seminar settings.
22 Respondent shall successfully complete the course within the first year of probation.

23 Respondent shall pay the cost of the course.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee within 15 days after completing the course.

26 4. ETHICS COURSE. Within 60 days of the effective date of this decision, Respondent
27 shall submit to the Board or its designee for its prior approval a course in ethics. The course shall
28 be limited to classroom, conference, or seminar settings. Respondent shall successfully complete

1 the course within the first year of probation.

2 Respondent shall pay the cost of the course.

3 Respondent shall submit a certification of successful completion to the Board or its
4 designee within 15 days after completing the course.

5 5. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective
6 date of this decision, Respondent shall enroll in a course in prescribing practices equivalent to the
7 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
8 University of California, San Diego School of Medicine (program), approved in advance by the
9 Board or its designee. Respondent shall provide the program with any information and
10 documents that the program may deem pertinent. Respondent shall participate in and
11 successfully complete the classroom component of the course not later than six (6) months after
12 Respondent's initial enrollment. Respondent shall successfully complete any other component of
13 the course within one (1) year of enrollment. The prescribing practices course shall be in addition
14 to the Continuing Medical Education (CME) requirements for renewal of licensure.

15 Respondent shall pay the cost of the course. The program shall determine whether
16 Respondent successfully completes the course.

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the decision, whichever is later.

20 6. MAINTENANCE OF PATIENT MEDICAL RECORDS. Respondent shall keep
21 written medical records for each patient contact (including all visits and phone calls) at the
22 worksite and shall make them available for immediate inspection by the Board or its designee on
23 the premises at all times during business hours.

24 7. APPROVAL OF SUPERVISING PHYSICIAN. Within 30 days of the effective date
25 of this decision, Respondent shall submit to the Board or its designee for its prior approval the
26 name and license number of the supervising physician and a practice plan detailing the nature and
27 frequency of supervision to be provided. Respondent shall not practice until the supervising
28 physician and practice plan are approved by the Board or its designee.

1 Respondent shall have the supervising physician submit quarterly reports to the Board or its
2 designee.

3 If the supervising physician resigns or is no longer available, Respondent shall, within 15
4 days, submit the name and license number of a new supervising physician for approval.

5 Respondent shall not practice until a new supervising physician has been approved by the Board
6 or its designee.

7 8. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN.

8 Respondent shall notify his/her current and any subsequent employer and supervising
9 physician(s) of the discipline and provide a copy of the Accusation, Decision, and Order to each
10 employer and supervising physician(s) during his/her period of probation, before accepting or
11 continuing employment. Respondent shall ensure that each employer informs the Board or its
12 designee, in writing within 30 days, verifying that the employer and supervising physician(s) have
13 received a copy of the Accusation, Decision, and Order.

14 This condition shall apply to any change(s) in place of employment.

15 The Respondent shall provide to the Board or its designee the names, physical addresses,
16 mailing addresses, and telephone numbers of all employers, supervising physicians, and work site
17 monitor, and shall inform the Board or its designee in writing of the facility or facilities at which
18 the person practices as a physician assistant.

19 Respondent shall give specific, written consent to the Board or its designee to allow the
20 Board or its designee to communicate with the employer, supervising physician, or work site
21 monitor regarding the licensee's work status, performance, and monitoring.

22 9. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws, and all
23 rules governing the practice of medicine as a physician assistant in California, and remain in full
24 compliance with any court ordered criminal probation, payments, and other orders.

25 10. QUARTERLY REPORTS. Respondent shall submit quarterly declarations under
26 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
27 compliance with all the conditions of probation.

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1 11. OTHER PROBATION REQUIREMENTS. Respondent shall comply with the
2 Board's probation unit. Respondent shall, at all times, keep the Board and probation unit
3 informed of Respondent's business and residence addresses. Changes of such addresses shall be
4 immediately communicated in writing to the Board and probation unit. Under no circumstances
5 shall a post office box serve as an address of record, except as allowed by California Code of
6 Regulations 1399.523.

7 Respondent shall appear in person for an initial probation interview with Board or its
8 designee within 90 days of the decision. Respondent shall attend the initial interview at a time
9 and place determined by the Board or its designee.

10 Respondent shall, at all times, maintain a current and renewed physician assistant license.

11 Respondent shall also immediately inform the probation unit, in writing, of any travel to
12 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
13 thirty (30) days.

14 12. INTERVIEW WITH MEDICAL CONSULTANT. Respondent shall appear in
15 person for interviews with the Board's medical or expert physician assistant consultant upon
16 request at various intervals and with reasonable notice.

17 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
18 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
19 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in
20 which Respondent is not practicing as a physician assistant. Respondent shall not return to
21 practice until the supervising physician is approved by the Board or its designee.

22 If, during probation, Respondent moves out of the jurisdiction of California to reside or
23 practice elsewhere, including federal facilities, Respondent is required to immediately notify the
24 Board in writing of the date of departure and the date of return, if any.

25 Practicing as a physician assistant in another state of the United States or federal
26 jurisdiction while on active probation with the physician assistant licensing authority of that state
27 or jurisdiction shall not be considered non-practice.

28 All time spent in a clinical training program that has been approved by the Board or its

1 designee, shall not be considered non-practice. Non-practice due to a Board ordered suspension
2 or in compliance with any other condition or probation, shall not be considered a period of non-
3 practice.

4 Any period of non-practice, as defined in this condition, will not apply to the reduction of
5 the probationary term.

6 Periods of non-practice do not relieve Respondent of the responsibility to comply with the
7 terms and conditions of probation.

8 It shall be considered a violation of probation if for a total of two years, Respondent fails to
9 practice as a physician assistant. Respondent shall not be considered in violation for non-practice
10 as long as Respondent is residing and practicing as a physician assistant in another state of the
11 United States and is on active probation with the physician assistant licensing authority of that
12 state, in which case the two year period shall begin on the date probation is completed or
13 terminated in that state.

14 14. UNANNOUNCED CLINICAL SITE VISIT. The Board or its designee may make
15 unannounced clinical site visits at any time to ensure that Respondent is complying with all terms
16 and conditions of probation.

17 15. CONDITION FULFILLMENT. A course, evaluation, or treatment completed after
18 the acts that gave rise to the charges in the accusation, but prior to the effective date of the
19 Decision may, in the sole discretion of the Board or its designee, be accepted towards the
20 fulfillment of the condition.

21 16. COMPLETION OF PROBATION. Respondent shall comply with all financial
22 obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the
23 completion of probation. Upon successful completion of probation, Respondent's license will be
24 fully restored.

25 17. VIOLATION OF PROBATION. If Respondent violates probation in any respect, the
26 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
27 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is
28 filed against Respondent during probation, the Board shall have continuing jurisdiction until the

1 matter is final, and the period of probation shall be extended until the matter is final.

2 18. COST RECOVERY. The Respondent is hereby ordered to reimburse the Physician
3 Assistant Board the amount of \$12,067.50 within 90 days from the effective date of this decision
4 for its investigative costs. Failure to reimburse the Board's costs for its investigation shall
5 constitute a violation of the probation order, unless the Board agrees in writing to payment by an
6 installment plan because of financial hardship. The filing of bankruptcy by the Respondent shall
7 not relieve the Respondent of his/her responsibility to reimburse the Board for its investigative
8 costs.

9 19. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
10 with probation monitoring each and every year of probation, as designated by the Board, which
11 may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant
12 Board and delivered to the Board no later than January 31 of each calendar year.

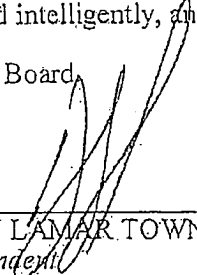
13 20. VOLUNTARY LICENSE SURRENDER. Following the effective date of this
14 probation, if Respondent ceases practicing due to retirement, health reasons, or is otherwise
15 unable to satisfy the terms and conditions of probation, Respondent may request, in writing, the
16 voluntarily surrender of Respondent's license to the Board. Respondent's written request to
17 surrender his or her license shall include the following: his or her name, license number, case
18 number, address of record, and an explanation of the reason(s) why Respondent seeks to
19 surrender his or her license. The Board reserves the right to evaluate the Respondent's request
20 and to exercise its discretion whether to grant the request, or to take any other action deemed
21 appropriate and reasonable under the circumstances. Respondent shall not be relieved of the
22 requirements of his or her probation unless the Board or its designee notifies Respondent in
23 writing that Respondent's request to surrender his or her license has been accepted. Upon formal
24 acceptance of the surrender, Respondent shall, within 15 days, deliver Respondent's wallet and
25 wall certificate to the Board or its designee and shall no longer practice as a physician assistant.
26 Respondent will no longer be subject to the terms and conditions of probation and the surrender
27 of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a
28 physician assistant license, the application shall be treated as a petition for reinstatement of a

1 revoked license.

2 ACCEPTANCE

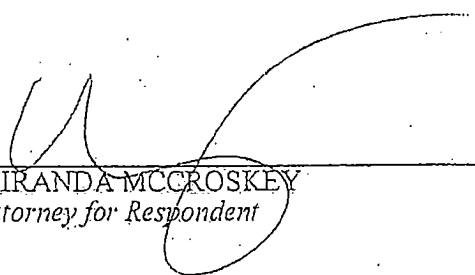
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Miranda McCroskey. I understand the stipulation and the effect it
5 will have on my Physician Assistant License. I enter into this Stipulated Settlement and
6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the Physician Assistant Board.

8
9 DATED: 3/23/17


DEAN LAMAR TOWNSEND, P.A.
Respondent

11 I have read and fully discussed with Respondent Dean Lamar Townsend, P.A. the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14
15 DATED: 3/23/17


MIRANDA MCCROSKEY
Attorney for Respondent

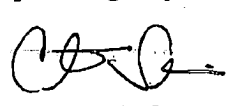
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Physician Assistant Board.

21 Dated: 3/23/17

Respectfully submitted,

22 XAVIER BECERRA
Attorney General of California
23 JUDITH T. ALVARADO
Supervising Deputy Attorney General

24 
25 CHRISTINA L. SEIN
26 Deputy Attorney General
27 Attorneys for Complainant

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1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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California Department of Justice
5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 897-9444
Facsimile: (213) 897-9395
7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 22 20 16
BY R. Firdaus ANALYST

8 **BEFORE THE**
9 **PHYSICIAN ASSISTANT BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 950-2014-000276

13 **DEAN LAMAR TOWNSEND, P.A.**
23100 Eucalyptus Avenue
Moreno Valley, CA 92553

A C C U S A T I O N

14 **Physician Assistant License No. PA 16781,**
15 Respondent.

16
17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Glenn L. Mitchell, Jr. (Complainant) brings this Accusation solely in his official
22 capacity as the Executive Officer of the Physician Assistant Board (Board), Department of
23 Consumer Affairs.

24 2. On or about January 30, 2003, the Physician Assistant Board issued Physician
25 Assistant License Number PA 16781 to Dean Lamar Townsend, P.A. (Respondent). The
26 Physician Assistant License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on June 30, 2016, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3501, subdivision (a)(1), of the Code states:

“(a) As used in this chapter: (1) ‘Board’ means the Physician Assistant Board.”

5. Section 3527 of the Code states in pertinent part:

“(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

“....

“(f) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

“....”

6. California Code of Regulations, title 16, section 1399.521, subdivision (a), states:

“In addition to the grounds set forth in section 3527, subd. (a), of the Code the board may deny, issue subject to terms and conditions, suspend, revoke or place on probation a physician assistant for the following causes:

“(a) Any violation of the State Medical Practice Act which would constitute unprofessional conduct for a physician and surgeon.”

7. Section 2234, subdivisions (b) and (c), of the Code state:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“....

“(b) Gross negligence.

1 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
2 omissions. An initial negligent act or omission followed by a separate and distinct departure from
3 the applicable standard of care shall constitute repeated negligent acts.

4 "(1) An initial negligent diagnosis followed by an act or omission medically
5 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

6 "(2) When the standard of care requires a change in the diagnosis, act, or omission
7 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
8 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
9 applicable standard of care, each departure constitutes a separate and distinct breach of the
10 standard of care."

11 8. Section 2242 of the Code states:

12 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
13 without an appropriate prior examination and a medical indication, constitutes unprofessional
14 conduct.

15 "(b) No licensee shall be found to have committed unprofessional conduct within the
16 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
17 the following applies:

18 "(1) The licensee was a designated physician and surgeon or podiatrist serving in the
19 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs
20 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
21 of his or her practitioner, but in any case no longer than 72 hours.

22 "(2) The licensee transmitted the order for the drugs to a registered nurse or to a
23 licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

24 "(A) The practitioner had consulted with the registered nurse or licensed
25 vocational nurse who had reviewed the patient's records.

26 "(B) The practitioner was designated as the practitioner to serve in the absence of
27 the patient's physician and surgeon or podiatrist, as the case may be.

28 "(3) The licensee was a designated practitioner serving in the absence of the patient's

1 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
2 the patient's records and ordered the renewal of a medically indicated prescription for an amount
3 not exceeding the original prescription in strength or amount or for more than one refill.

4 "(4) The licensee was acting in accordance with Section 120582 of the Health and
5 Safety Code."

6 9. Section 2266 of the Code states:

7 "The failure of a physician and surgeon to maintain adequate and accurate records relating
8 to the provision of services to their patients constitutes unprofessional conduct."

9 10. Section 3502 of the Code states in pertinent part:

10 "(a) Notwithstanding any other provision of law, a physician assistant may perform those
11 medical services as set forth by the regulations of the board when the services are rendered under
12 the supervision of a licensed physician and surgeon or of physicians and surgeons approved by
13 the board, except as provided in Section 3502.5.

14 "...."

15 COST RECOVERY

16 11. Section 125.3 of the Code states:

17 (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
18 proceeding before any board within the department or before the Osteopathic Medical Board,
19 upon request of the entity bringing the proceeding may request the administrative law judge to
20 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
21 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

22 (b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may
23 be made against the licensed corporate entity or licensed partnership.

24 (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs
25 are not available, signed by the entity bringing the proceeding or its designated representative
26 shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.
27 The costs shall include the amount of investigative and enforcement costs up to the date of the
28 hearing, including, but not limited to, charges imposed by the Attorney General.

1 (d) The administrative law judge shall make a proposed finding of the amount of reasonable
2 costs of investigation and prosecution of the case when requested pursuant to subdivision (a).
3 The finding of the administrative law judge with regard to costs shall not be reviewable by the
4 board to increase the cost award. The board may reduce or eliminate the cost award, or remand to
5 the administrative law judge where the proposed decision fails to make a finding on costs
6 requested pursuant to subdivision (a).

7 (e) Where an order for recovery of costs is made and timely payment is not made as
8 directed in the board's decision, the board may enforce the order for repayment in any appropriate
9 court. This right of enforcement shall be in addition to any other rights the board may have as to
10 any licentiate to pay costs.

11 (f) In any action for recovery of costs, proof of the board's decision shall be conclusive
12 proof of the validity of the order of payment and the terms for payment.

13 (g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the
14 license of any licentiate who has failed to pay all of the costs ordered under this section. (2)
15 Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate
16 for a maximum of one year the license of any licentiate who demonstrates financial hardship and
17 who enters into a formal agreement with the board to reimburse the board within that one-year
18 period for the unpaid costs.

19 (h) All costs recovered under this section shall be considered a reimbursement for costs
20 incurred and shall be deposited in the fund of the board recovering the costs to be available upon
21 appropriation by the Legislature.

22 (i) Nothing in this section shall preclude a board from including the recovery of the costs of
23 investigation and enforcement of a case in any stipulated settlement.

24 (j) This section does not apply to any board if a specific statutory provision in that board's
25 licensing act provides for recovery of costs in an administrative disciplinary proceeding.

26 ///

27 ///

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence – Patient S.A.¹)

3 12. Respondent's license is subject to disciplinary action under section 2234, subdivision
4 (b), of the Code in that he was grossly negligent in his care and treatment of patient S.A. The
5 circumstances are as follows:

6 13. At all times relevant to the allegations herein, Respondent was a California-licensed
7 physician assistant practicing in the area of orthopedics.

8 14. Patient S.A., then a 28-year-old female, first treated with Respondent's supervising
9 physician on or about April 14, 2014. She was diagnosed with status post left wrist ganglion
10 excision and bilateral carpal tunnel syndrome. Respondent's supervising physician recommended
11 local injections, refill of medications, and urinalysis.

12 15. On or about July 10, 2014, Respondent treated S.A. for a recheck of the carpal tunnel
13 syndrome. Respondent noted that S.A. complained about continued depression/anxiety episodes
14 that were treated by a psychiatrist prior to seeing Respondent and that she was receiving
15 medication and therapy with continued benefit before it was abruptly stopped.

16 16. Without investigation into the reasons for why the medications for depression/anxiety
17 were stopped by S.A.'s treating psychiatrist, Respondent refilled S.A.'s prescription for Prozac
18 (an antidepressant).

19 17. The standard of care for a physician assistant is that level of skill, knowledge, and
20 care in diagnosis and treatment ordinarily possessed and exercised by other reasonably careful
21 and prudent physician assistants in the same or similar circumstances at the time in question.

22 18. Respondent's treatment of patient S.A., as set forth above in paragraphs 13 through
23 16, includes the following acts and/or omissions which constitute an extreme departure from the
24 standard of care:

25 A. Respondent noted that another physician (S.A.'s treating psychiatrist) decided
26 to stop a specific medication. Without investigation into the reasons for that decision,

27 _____
28 ¹ Patients are referred to by initials in order to protect their privacy.

1 Respondent countermanded the treating psychiatrist's decision and refilled the medication
2 (Prozac).

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Repeated Negligent Acts – Patients S.A., C.C., and L.G.)**

5 19. Respondent's license is subject to disciplinary action under section 2234, subdivision
6 (c), of the Code in that he committed repeated negligent acts in his care and treatment of patients
7 S.A., C.C., and L.G. The circumstances are as follows:

8 20. The allegations of the First Cause for Discipline are incorporated by reference as if
9 fully set forth herein.

10 **Patient C.C.**

11 21. Patient C.C., then a 44-year-old male, first treated with Respondent's supervising
12 physician on or about July 13, 2011. He was diagnosed with discogenic back pain, right lower
13 extremity radiculitis, and spinal stenosis.

14 22. On or about June 7, 2012 and September 11, 2012, the medical insurance provider for
15 C.C. sent a letter denying coverage for Terocin (a Ketoprofen-compound cream and topical
16 analgesic), in part, because Terocin is not FDA approved. Despite the denial from the insurance
17 carrier and requests for further information from the insurance carrier, on or about January 9,
18 2013, Respondent continued to prescribe Terocin without documentation of either an
19 acknowledgment of the issue or justification for the medication and its continued use.

20 23. On or about January 9, 2013, Respondent refilled C.C.'s prescription for Norco
21 (hydrocodone bitartrate and acetaminophen), despite prior urinalysis of C.C. indicating that
22 hydrocodone was not detected.

23 **Patient L.G.**

24 24. Patient L.G., then a 54-year-old female, first treated with Respondent's supervising
25 physician on or about July 14, 2005. She was diagnosed with left shoulder strain and left
26 shoulder calcific rotator cuff tendinitis.

27 25. For a six-year period of time, from 2005 until at least April 15, 2011, Respondent
28 continually prescribed Soma (carisoprodol) and Motrin (ibuprofen) without sufficient

1 justification.

2 26. The standard of care for a physician assistant is that level of skill, knowledge, and
3 care in diagnosis and treatment ordinarily possessed and exercised by other reasonably careful
4 and prudent physician assistants in the same or similar circumstances at the time in question.

5 27. The standard of care when performing pain management services is to take a proper
6 history and physical exam, assessment of pain, physical and psychological function, substance
7 abuse history, history of prior pain treatment, or an assessment of underlying or co-existing
8 disease or conditions with documentation of the presence of a recognized medical indication for
9 the use of a controlled substance.

10 28. Respondent's treatment of patients S.A., C.C., and L.G., as set forth above in
11 paragraphs 20 through 27, includes the following acts and/or omissions which constitute repeated
12 negligent acts:

13 A. With respect to S.A., Respondent noted that another physician (S.A.'s treating
14 psychiatrist) decided to stop a specific medication. Without investigation into the reasons for that
15 decision, Respondent countermanded the treating psychiatrist's decision and refilled the
16 medication (Prozac).

17 B. With respect to C.C., despite a denial from the insurance carrier and requests
18 for further information from the insurance carrier regarding Terocin, Respondent continued to
19 prescribe Terocin without documentation of either an acknowledgment of the issue or
20 justification for the medication and its continued use.

21 C. Respondent refilled C.C.'s prescription for Norco (hydrocodone bitartrate and
22 acetaminophen), despite prior urinalysis of C.C. indicating that hydrocodone was not detected.

23 D. With respect to L.G., Respondent continually prescribed Soma (carisoprodol)
24 and Motrin (ibuprofen) without sufficient justification over a six-year period of time.

25 29. Respondent's acts and/or omissions as set forth in paragraphs 20 through 28, above,
26 whether proven individually, jointly, or in any combination thereof, constitute repeated negligent
27 acts, pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

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3. Taking such other and further action as deemed necessary and proper.

(DEAN LAMAR TOWNSEND, P.A.) ACCUSATION